

exercise of authority by a State or local agency, that agency will be consulted prior to the preparation of the draft statement. Use will be made of the State and local A-95 clearing-houses.

**§ 401.60 Draft environmental impact statement.**

The Executive Director shall prepare a substantive draft environmental impact statement as soon as practicable after the decision that the statement is necessary. Where a plan or program has been developed, the relationship between the plan and the subsequent projects or phases encompassed by it shall be evaluated to determine the preferable and most meaningful point in time for preparing a statement. Where practicable the statement will be drafted for the total program at the completion of the overall planning stage. Individual actions included in the plan will not require separate statements except where significant change has occurred. A supplemental statement will be issued covering only that change. The discussion of alternatives to the proposed action and their impact on the environment will accompany the proposed action through the Commission's entire review process. Generally the content of an environmental impact statement will include the following: (Substantive description of the content is available in supplemental guidelines upon request).

- (a) Summary.
- (b) Description of the proposed action, statement of its purpose and its components in detail commensurate for an assessment of potential environmental impact.
- (c) A succinct description of the environmental setting without the proposed action.
- (d) The relationship of the proposed action to water and land use plans, policies and controls for the affected area.
- (e) The probable impact of the proposed action on the environment, beneficial and adverse, including secondary or indirect, as well as primary or direct, consequences.
- (f) Any probable adverse environmental effects which cannot be avoided,

summarizing those effects discussed in paragraph (e) of this section that are adverse and unavoidable.

(g) All reasonable alternatives to the proposed action that have been considered including that of no action, with an objective evaluation of the environmental impacts from each.

(h) An evaluation of the proposed action in relation to short-term use of man's environment and the maintenance and enhancement of long-term productivity.

(i) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented.

(j) An indication of other interests and considerations of Federal policy thought to offset the adverse environmental effects of the proposed action.

(k) When determined by the Executive Director as necessary, an evaluation of environmental benefits, costs and risks of the proposed action compared to the alternatives considered against the quality of the human environment.

**§ 401.61 Processing the draft environmental impact statement.**

(a) The Executive Director shall distribute ten copies of the draft environmental impact statement and two completed National Technical Information Service (NTIS) accession notice cards to the Council on Environmental Quality.

(b) The Executive Director shall announce to other agencies and the general public via the FEDERAL REGISTER and in accordance with other chapters and sections of the Administrative Manual, both the availability of the draft environmental impact statement and the date of a public hearing on environmental factors which will be held not less than 15 days after the draft environmental impact statement has been made available to the public.

(c) Concurrent with the announcement of availability, the Executive Director shall provide copies of the draft environmental impact statement to the Environmental Protection Agency and to appropriate field offices of reviewing Federal agencies that have special expertise or jurisdiction by law with respect to any impacts involved

as listed in Appendix II of the Council on Environmental Quality's guidelines. At the same time, copies shall also be provided to the appropriate State and local agencies and to interested organizations and persons.

(d) All comments made upon the draft environmental impact statement should be submitted to DRBC within 45 days after the date of publication in the FEDERAL REGISTER announcing the availability of the draft. Extensions of review time will be at the discretion of the Executive Director.

**§ 401.62 Final environmental impact statement.**

Following receipt of comments on the draft environmental impact statement and public hearing, the Executive Director shall prepare a final environmental impact statement responding to written and/or recorded suggestions, criticisms and comments raised through the review of the draft statement. Distribution will be to the Council on Environmental Quality, the Environmental Protection Agency and those who respond to the draft statement and to written requests.

**§ 401.63 Public availability of statements.**

All draft and final environmental impact statements, including comments received thereon, shall be available for public examination as per the Freedom of Information Act in the Commission's offices and such other offices as the Executive Director may designate.

**§ 401.64 Earliest date for Commission action.**

As directed by the Commission, the Executive Director will forward the final environmental impact statement to the Council on Environmental Quality. The Commission will act upon a project that is subject to the requirements of this section not less than 90 days after a draft environmental impact statement has been released for public comment and not less than 30 days (which may run concurrently within the 90 days) after the final environmental impact statement has been received by the Council on Environmental Quality. The Commission will include or refer to the environmental

assessment or the environmental impact statement, and will make specific findings and conclusions with respect to the environmental effects of the project.

**§ 401.65 Emergency circumstances.**

In the event of emergency circumstances those projects requiring an environmental impact statement as provided for in § 401.42, the Executive Director will consult with the Council on Environmental Quality with respect to waiver, suspension or deferment of the requirements of this subpart before any action is taken.

**§ 401.66 Adequacy of draft and final environmental impact statements.**

The draft and final environmental impact statements will represent the Commission's independent evaluation of the environmental impacts of the action and the appropriate alternatives to the proposed action. Redraft statements will be prepared if, prior to the submission of a final statement to the Council on Environmental Quality, the original draft is inadequate because significant information relevant to the total action was omitted from the original draft or only came to light after circulation of the original draft. All redraft statements shall be circulated for comment in the same manner as original draft environmental impact statements.

**§ 401.67 Procedure for commenting upon environmental impact statements.**

(a) Comments prepared on draft environmental impact statements authored by other agencies will be based upon the relationship of the action proposed to the Commission's Comprehensive Plan.

(b) Comments will be organized consistent with the structure of the draft statement and will be as specific, substantive and factual as possible.

(c) Five copies of all comments made thereon will be furnished to the Council on Environmental Quality.